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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 21st August, 1984:—

I

BILL NO. XXI OF 1984

A Bill to provide for the establishment of Family Courts with a view to promote conciliation in, and secure speedy settlement of, disputes relating to marriage and family affairs and for matters connected therewith.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Family Courts Act, 1984.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States.

Short
title,
extent
and com-
mencement.

Defini-
tions.

2. In this Act, unless the context otherwise requires,—

(a) “Judge” means the Judge or, as the case may be, the Principal Judge, Additional Principal Judge or other Judge of a Family Court;

(b) “notification” means a notification published in the Official Gazette;

(c) “prescribed” means prescribed by rules made under this Act;

(d) “Family Court” means a Family Court established under section 3;

(e) all other words and expressions used but not defined in this Act and defined in the Code of Civil Procedure, 1908 shall have the meanings respectively assigned to them in that Code.

5 of 1908.

CHAPTER II

FAMILY COURTS

Establish-
ment
of Family
Courts.

3. (1) For the purpose of exercising the jurisdiction and powers conferred on a Family Court by this Act, the State Government, after consultation with the High Court, and by notification,—

(a) shall, as soon as may be after the commencement of this Act, establish for every area in the State comprising a city or town whose population exceeds one million, a Family Court;

(b) may establish Family Courts for such other areas in the State as it may deem necessary.

(2) The State Government shall, after consultation with the High Court, specify, by notification, the local limits of the area to which the jurisdiction of a Family Court shall extend and may, at any time, increase, reduce or alter such limits.

Appoint-
ment of
Judges.

4. (1) The State Government may, with the concurrence of the High Court, appoint one or more persons to be the Judge or Judges of a Family Court.

(2) When a Family Court consists of more than one Judge,—

(a) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force;

(b) the State Government may, with the concurrence of the High Court, appoint any of the Judges to be the Principal Judge and any other Judge to be the Additional Principal Judge;

(c) the Principal Judge may, from time to time, make such arrangements as he may deem fit for the distribution of the business of the Court among the various Judges thereof;

(d) the Additional Principal Judge may exercise the powers of the Principal Judge in the event of any vacancy in the office of the Principal Judge or when the Principal Judge is unable to discharge his functions owing to absence, illness or any other cause.

(3) A person shall not be qualified for appointment as a Judge unless he—

(a) has for at least seven years held a judicial office in India or the office of a Member of a Tribunal or any post, under the Union or a State, requiring special knowledge of law; or

(b) has for at least seven years been an advocate of a High Court or of two or more such Courts in succession; or

(c) possesses such other qualifications as the Central Government may, with the concurrence of the Chief Justice of India, prescribe.

(4) In selecting persons for appointment as Judges,—

(a) every endeavour shall be made to ensure that persons committed to the need to protect and preserve the institution of marriage and to promote the welfare of children and qualified by reason of their experience and expertise to promote the settlement of disputes by conciliation and counselling are selected; and

(b) preference shall be given to women.

(5) No person shall be appointed as, or hold the office of, a Judge of a Family Court after he has attained the age of sixty-two years.

(6) The salary or honorarium and other allowances payable to, and the other terms and conditions of service of, a Judge shall be such as the State Government may, in consultation with the High Court, prescribe.

5. The State Government may, in consultation with the High Court, provide, by rules, for the association, in such manner and for such purposes and subject to such conditions as may be specified in the rules, with a Family Court of—

Associa-
tion of
social
welfare
agencies,
etc.

(a) institutions or organisations engaged in social welfare or the representatives thereof;

(b) persons professionally engaged in promoting the welfare of the family;

(c) persons working in the field of social welfare; and

(d) any other person whose association with a Family Court would enable it to exercise its jurisdiction more effectively in accordance with the purposes of this Act.

6.(1) The State Government shall, in consultation with the High Court, determine the number and categories of counsellors, officers and other employees required to assist a Family Court in the discharge of its functions and provide the Family Court with such counsellors, officers and other employees as it may think fit.

Counsel-
lors,
officers
and other
em-
ployees
of
Family
Courts.

(2) The terms and conditions of association of the counsellors and the terms and conditions of service of the officers and other employees, referred to in subsection (1), shall be such as may be specified by rules made by State Government.

CHAPTER III

JURISDICTION

7. (1) Subject to the other provisions of this Act, a Family Court shall—

Juris-
diction.

(a) have and exercise all the jurisdiction exercisable by any district court or any subordinate civil court under any law for the time being in force in respect of suits and proceedings of the nature referred to in the Explanation; and

(b) be deemed, for the purposes of exercising such jurisdiction under such law, to be a district court or, as the case may be, such subordinate civil court for the area to which the jurisdiction of the Family Court extends.

Explanation.—The suits and proceedings referred to in this sub-section are suits and proceedings of the following nature, namely:—

(a) a suit or proceeding between the parties to a marriage for a decree of nullity of marriage (declaring the marriage to be null and void or, as the case may be, annulling the marriage) or restitution of conjugal rights or judicial separation or dissolution of marriage;

(b) a suit or proceeding for a declaration as to the validity of a marriage or as to the matrimonial status of any person;

(c) a suit or proceeding between the parties to a marriage with respect to the property of the parties or of either of them;

(d) a suit or proceeding for an order or injunction in circumstances arising out of a marital relationship;

(e) a suit or proceeding for a declaration as to the legitimacy of any person;

(f) a suit or proceeding for maintenance;

(g) a suit or proceeding in relation to the guardianship of the person or the custody of, or access to, any minor.

(2) Subject to the other provisions of this Act, a Family Court shall also have and exercise—

(a) the jurisdiction exercisable by a Magistrate of the first class under Chapter IX (relating to order for maintenance of wife, children and parents) of the Code of Criminal Procedure, 1973; and

2 of 1974.

(b) such other jurisdiction as may be conferred on it by any other enactment.

Exclusion of jurisdiction and pending proceedings.

8. Where a Family Court has been established for any area,—

(a) no district court or any subordinate civil court referred to in sub-section (1) of section 7 shall, in relation to such area, have or exercise any jurisdiction in respect of any suit or proceeding of the nature referred to in the *Explanation* to that sub-section;

(b) no magistrate shall, in relation to such area, have or exercise any jurisdiction or powers under Chapter IX of the Code of Criminal Procedure, 1973;

2 of 1974.

(c) every suit or proceeding of the nature referred to in the *Explanation* to sub-section (1) of section 7 and every proceeding under Chapter IX of the Code of Criminal Procedure, 1973,—

2 of 1974.

(i) which is pending immediately before the establishment of such Family Court before any district court or subordinate court referred to in that sub-section or, as the case may be, before any magistrate under the said Code; and

(ii) which would have been required to be instituted or taken before or by such Family Court if, before the date on which such suit or proceeding was instituted or taken, this Act had come into force and such Family Court had been established, shall stand transferred to such Family Court on the date on which it is established.

CHAPTER IV

PROCEDURE

9. (1) In every suit or proceeding, endeavour shall be made by the Family Court in the first instance, where it is possible to do so consistent with the nature and circumstances of the case, to assist and persuade the parties in arriving at a settlement in respect of the subject-matter of the suit or proceeding and for this purpose a Family Court may, subject to any rules made by the High Court, follow such procedure as it may deem fit.

Duty of Family Court to make efforts for settlement.

(2) If, in any suit or proceeding, at any stage, it appears to the Family Court that there is a reasonable possibility of a settlement between the parties, the Family Court may adjourn the proceedings for such period as it thinks fit to enable attempts to be made to effect such a settlement.

(3) The power conferred by sub-section (2) shall be in addition to, and not in derogation of, any other power of the Family Court to adjourn the proceedings.

2 of 1974.

10. (1) Subject to the other provisions of this Act and the rules, the provisions of the Code of Civil Procedure and of any other law for the time being in force shall apply to the suits and proceedings (other than the proceedings under Chapter IX of the Code of Criminal Procedure, 1973) before a Family Court and for the purposes of the said provisions of the Code, a Family Court shall be deemed to be a civil court and shall have all the powers of such court.

Procedure generally.

2 of 1974.

(2) Subject to the other provisions of this Act and the rules, the provisions of the Code of Criminal Procedure, 1973 or the rules made thereunder, shall apply to the proceedings under Chapter IX of that Code before a Family Court.

(3) Nothing in sub-section (1) or sub-section (2) shall prevent a Family Court from laying down its own procedure with a view to arrive at a settlement in respect of the subject-matter of the suit or proceedings or at the truth of the facts alleged by the one Party and denied by the other.

11. In every suit or proceedings to which this Act applies, the proceedings may be held *in camera* if the Family Court so desires and shall be so held if either party so desires.

Proceedings to be held in camera.

12. In every suit or proceedings, it shall be open to a Family Court to secure the services of a medical expert or such person (preferably a woman where available), whether related to the parties or not, including a person professionally engaged in promoting the welfare of the family as the Court may think fit, for the purposes of assisting the Family Court in discharging the functions imposed by this Act.

Assistance of medical and welfare experts.

Right to
legal repre-
sentation.

13. Notwithstanding anything contained in any law, no party to a suit or proceeding before a Family Court shall be entitled, as of right, to be represented by a legal practitioner:

Provided that if the Family Court considers it necessary in the interest of justice, it may seek the assistance of a legal expert *as amicus curiae*.

Applica-
tion of
Indian
Evidence
Act, 1872.

14. A Family Court may receive as evidence any report, statement, documents, information or matter that may, in its opinion, assist it to deal effectually with a dispute, whether or not the same would be otherwise relevant or admissible under the Indian Evidence Act, 1872.

1 of 1872.

Record of
oral
evidence.

15. In suits or proceedings before a Family Court, it shall not be necessary to record the evidence of witnesses at length, but the Judge, as the examination of each witness proceeds, shall, record or cause to be recorded, a memorandum of the substance of what the witness deposes, and such memorandum shall be signed by the witness and the Judge and shall form part of the record.

Evidence
of formal
character
on affida-
vit.

16. (1) The evidence of any person where such evidence is of a formal character, may be given by affidavit and may, subject to all just exceptions, be read in evidence in any suit or proceeding before a Family Court.

(2) The Family Court may, if it thinks fit, and shall, on the application of any of the parties to the suit or proceeding summon and examine any such person as to the facts contained in his affidavit.

Judgment.

17. Judgment of a Family Court shall contain a concise statement of the case, the point for determination, the decision thereon and the reasons for such decision.

Execution
of
decrees
and
orders.

18. (1) A decree or an order (other than an order under Chapter IX of the Code of Criminal Procedure, 1973), passed by a Family Court shall have the same force and effect as a decree or order of a civil court and shall be executed in the same manner as is prescribed by the Code of Civil Procedure, 1908 for the execution of decrees and orders.

2 of 1974.

5 of 1908.

(2) An order passed by a Family Court under Chapter IX of the Code of Criminal Procedure, 1973 shall be executed in the manner prescribed for the execution of such order by that Code.

2 of 1974.

(3) A decree or order may be executed either by the Family Court which passed it or by the other Family Court or ordinary civil court to which it is sent for execution.

CHAPTER V

APPEALS

Appeal.

19. (1) Save as provided in sub-section (2) and notwithstanding anything contained in the Code of Civil Procedure, 1908 or in the Code of Criminal Procedure, 1973 or in any other law, an appeal shall lie from every judgment or order, not being an interlocutory order, of a Family Court to the High Court both on facts and on law.

5 of 1908.

2 of 1974.

(2) No appeal shall lie from a decree or order passed by the Family Court with the consent of the parties.

(3) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment or order of a Family Court.

(4) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, order or decree of a Family Court.

(5) An appeal preferred under sub-section (1) shall be heard by a Bench consisting of two or more Judges.

CHAPTER VI

MISCELLANEOUS

20. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have overriding effect.

21. (1) The High Court may, by notification in the Official Gazette, make such rules as it may deem necessary for carrying out the purposes of this Act.

Power of High Court to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) normal working hours of Family Courts and holding of sittings of Family Courts on holidays and outside normal working hours;

(b) holding of sittings of Family Courts at places other than their ordinary places of sitting;

(c) efforts which may be made by, and the procedure which may be followed by, a Family Court for assisting and persuading parties to arrive at a settlement.

22. (1) The Central Government may, with the concurrence of the Chief Justice of India, by notification, make rules prescribing the other qualifications for appointment of a Judge referred to in clause (c) of sub-section (3) of section 4.

Power of the Central Government to make rules.

(2) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

23. (1) The State Government may, after consultation with the High Court, by notification, make rules for carrying out the purposes of this Act.

Power of the State Government to make rules.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), such rules may provide for all or any of the following matters, namely:—

(a) the salary or honorarium and other allowances payable to, and the other terms and conditions of Judges under sub-section (6) of section 4;

(b) the terms and conditions of association of counsellors and the terms and conditions of service of the officers and other employees referred to in section 6;

(c) payment of fees and expenses (including travelling expenses) of medical and other experts and other persons referred to in section 12 out of the revenues of the State Government and the scales of such fees and expenses;

(d) payment of fees and expenses to legal practitioners appointed under section 13 as *amicus curiae* out of the revenues of the State Government and the scales of such fees and expenses;

(e) any other matter which is required to be, or may be, prescribed or provided for by rules.

(3) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

Several associations of women, other organisations and individuals have urged, from time to time, that Family Courts be set up for the settlement of family disputes, where emphasis should be laid on conciliation and achieving socially desirable results and adherence to rigid rules of procedure and evidence should be eliminated. The Law Commission in its 59th report (1974) had also stressed that in dealing with disputes concerning the family the court ought to adopt an approach radically different from that adopted in ordinary civil proceedings and that it should make reasonable efforts at settlement before the commencement of the trial. The Code of Civil Procedure was amended in 1976 to provide for a special procedure to be adopted in suits or proceedings relating to matters concerning the family. However, not much use has been made by the courts in adopting this conciliatory procedure and the courts continue to deal with family disputes in the same manner as other civil matters and the same adversary approach prevails. The need was, therefore, felt, in the public interest, to establish Family Courts for speedy settlement of family disputes.

2. The Bill, *inter alia*, seeks to:—

(a) provide for establishment of Family Courts by the State Governments;

(b) make it obligatory on the State Governments to set up a Family Court in every city or town with a population exceeding one million;

(c) enable the State Governments to set up, such courts in areas other than those specified in (b) above;

(d) exclusively provide within the jurisdiction of the Family Courts the matters relating to:—

(i) matrimonial relief, including nullity of marriage, judicial separation, divorce, restitution of conjugal rights, or declaration as to the validity of marriage or as to the matrimonial status of any person;

(ii) the property of the spouses or of either of them;

(iii) declaration as to the legitimacy of any person;

(iv) guardianship of a person or the custody of any minor;

(v) maintenance, including proceedings under Chapter IX of the Code of Criminal Procedure;

(e) make it obligatory on the part of the Family Court to endeavour, in the first instance to effect a reconciliation or a settlement between the parties to a family dispute. During this stage, the proceedings will be informal and rigid rules of procedure shall not apply;

(f) provide for the association of social welfare agencies, counsellors, etc., during conciliation stage and also to secure the service of medical and welfare experts;

(g) provide that the parties to a dispute before a Family Court shall not be entitled, as of right, to be represented by legal practitioner. However, the Court may, in the interest of justice, seek assistance of a legal expert as *amicus curiae*;

(h) simplify the rules of evidence and procedure so as to enable a Family Court to deal effectively with a dispute;

(i) provide for only one right of appeal which shall lie to the High Court.

3. The Bill seeks to achieve the above objects.

NEW DELHI;

JAGANNATH KAUSHAL.

The 13th August, 1984.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of Family Courts by the State Governments and Union Territory Administrations. Clause 4 of the Bill provides for appointment of Judges as Principal Judge and Additional Principal Judge. Certain expenses will be required by way of fees on the association of social workers, counsellors, medical experts, etc., and also on the other staff required by the Family Courts (clauses 5, 6, 12 and 13).

2. The expenditure towards setting up of the Family Courts and salaries and allowances of the Judges and other miscellaneous expenses in the State will be provided by the respective State Governments and for the Family Courts to be set up by the Union Territory Administrations, the expenditure will be defrayed out of the Consolidated Fund of India. At present, it will not be possible to work out the exact cost of buildings/lands, etc., that may be required for the Family Courts. It is also not possible to visualise, at this stage, the total number of courts that may have to be set up. Therefore, annual expenditure on a Family Court including salaries and allowances, etc., of the judges has been roughly worked out at Rs. 3 lakhs per annum. Out of this, Rs. 2.35 lakhs will be on the salary and allowances of Judges, other staff and hiring of accommodation (recurring) and Rs. 65,000 on office equipment and furniture, etc. (non-recurring). To start with, 5 Family Courts may be set up in the Union Territories.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the High Court to make rules for carrying out the purposes of the Bill. The matters in respect of which such rules may be made *inter alia* relate to the normal working hours of Family Courts and holding of sittings of the Family Courts on holidays and outside normal working hours, holding of sittings of Family Courts at places other than their ordinary places of sittings and the efforts which may be made by, and the procedure which may be followed by, the Family Court for assisting and persuading parties to arrive at a settlement.

2. Clause 22 of the Bill empowers the Central Government to make rules prescribing the other qualifications for appointment of a Judge referred to in item (c) of sub-clause (3) of clause 4 of the Bill.

3. Clause 23 of the Bill empowers the State Government to make rules in consultation with the High Court for carrying out the purposes of the Bill. The matters in respect of which such rules may be made *inter alia* relates to the salary or honorarium and other allowances payable to, and the other terms and conditions of Judges under sub-clause (6) of clause 4, the terms and conditions of association of counsellors and the terms and conditions of service of the officers and other employees referred to in clause 6, payment of fees and expenses (including travelling expenses) of medical and other experts and other persons referred to in clause 12 out of the revenues of the State Government and the scales of such fees and expenses, and also the payment of fees and expenses to legal practitioners appointed under clause 13 as *amicus curiae* out of the revenues of the State Government and the scale of such fees and expenses and any other matter which is required to be, or may be, prescribed or provided for by rules.

4. The matters in respect of which rules may be made are matters of administrative detail and procedure and, as such, the delegation of legislative power is of a normal character.

II

BILL NO. XX OF 1984

A Bill to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Administrative Tribunals Act, 1984.

(2) It extends,—

(a) in so far as it relates to the Central Administrative Tribunal, to the whole of India;

(b) in so far as it relates to Administrative Tribunals for States, to the whole of India, except the State of Jammu and Kashmir.

Short
title,
extent
and
commen-
cement.

(3) The provisions of this Act, in so far as they relate to the Central Administrative Tribunal, shall come into force on such date as the Central Government may, by notification, appoint.

(4) The provisions of this Act, in so far as they relate to an Administrative Tribunal for a State, shall come into force in a State on such date as the Central Government may, by notification, appoint.

Act not to
apply to
certain
persons.

2. The provisions of this Act shall not apply to—

(a) any member of the Naval, Military or Air Forces or of any other armed forces of the Union;

(b) any person governed by the provisions of the Industrial Disputes Act, 1947, in regard to such matters in respect of which he is so governed;

(c) any officer or servant of the Supreme Court or of any High Court;

(d) any person appointed to the secretarial staff of either House of Parliament or to the secretarial staff of any State Legislature or a House thereof or, in the case of a Union territory having a Legislature, of that Legislature.

Definitions.

3. In this Act, unless the context otherwise requires,—

(a) "Administrative Tribunal", in relation to a State, means the Administrative Tribunal for the State or, as the case may be, the Joint Administrative Tribunal for that State and any other State or States;

(b) "application" means an application made under section 19;

(c) "appointed day", in relation to a Tribunal, means the date with effect from which it is established, by notification, under section 4;

(d) "appropriate Government" means—

(i) in relation to the Central Administrative Tribunal or a Joint Administrative Tribunal, the Central Government;

(ii) in relation to a State Administrative Tribunal, the State Government;

(e) "Bench" means a Bench of a Tribunal;

(f) "Central Administrative Tribunal" means the Administrative Tribunal established under sub-section (1) of section 4;

(g) "Chairman" means the Chairman of a Tribunal;

(h) "Joint Administrative Tribunal" means an Administrative Tribunal for two or more States established under sub-section (3) of section 4;

(i) "Member" means a Member of a Tribunal;

(j) "notification" means a notification published in the Official Gazette;

(k) "post" means a post within or outside India;

(l) "prescribed" means prescribed by rules made under this Act;

(m) "President" means the President of India;

(n) "principal Bench" means the principal Bench of a Tribunal;

(o) "rules" means rules made under this Act;

(p) "service" means service within or outside India;

(q) "service matters", in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation owned or controlled by the Government, as respects—

(i) remuneration (including allowances), pension and other retirement benefits;

(ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;

(iii) leave of any kind;

(iv) disciplinary matters; or

(v) any other matter whatsoever;

(r) "service rules as to redressal of grievances", in relation to any matter, means the rules, regulations, orders or other instruments or arrangements as in force for the time being with respect to redressal otherwise than under this Act, of any grievances in relation to such matters;

(s) "Supreme Court" means the Supreme Court of India;

(t) "Tribunal" means the Central Administrative Tribunal or a State Administrative Tribunal or a Joint Administrative Tribunal;

(u) "Vice-Chairman" means the Vice-Chairman of a Tribunal.

Explanation.—In the case of a Tribunal having two or more Vice-Chairmen, references to the Vice-Chairman in this Act shall be construed as a reference to each of those Vice-Chairmen.

CHAPTER II

ESTABLISHMENT OF TRIBUNALS AND BENCHES THEREOF

4. (1) The Central Government shall, by notification, establish an Administrative Tribunal, to be known as the Central Administrative Tribunal, to exercise the jurisdiction, powers and authority conferred on the Central Administrative Tribunal by this Act.

Establishment of Administrative Tribunals.

(2) The Central Government may, on receipt of a request in this behalf from any State Government, establish, by notification, an Administrative Tribunal for the State to be known as the..... (name of the State) Administrative Tribunal to exercise the jurisdiction, powers and authority conferred on the Administrative Tribunal for the State by this Act.

(3) Two or more States may, notwithstanding anything contained in sub-section (2) and notwithstanding that any or all of those States has or have Tribunals established under that sub-section, enter into an agreement that the same Administrative Tribunal shall be the Adminis-

trative Tribunal for each of the States participating in the agreement, and if the agreement is approved by the Central Government and published in the Gazette of India and the Official Gazette of each of those States, the Central Government may, by notification, establish a Joint Administrative Tribunal to exercise the jurisdiction, powers and authority conferred on the Administrative Tribunals for those States by this Act.

(4) An agreement under sub-section (3) shall contain provisions as to the name of the Joint Administrative Tribunal, the manner in which the participating States may be associated in the selection of the Chairman, Vice-Chairman and other Members of the Joint Administrative Tribunal, the places at which the Bench or Benches of the Tribunal shall sit, the apportionment among the participating States of the expenditure in connection with the Joint Administrative Tribunal and may also contain such other supplemental, incidental and consequential provisions not inconsistent with this Act as may be deemed necessary or expedient for giving effect to the agreement.

Composition of
Tribunals
and
Benches
thereof.

5. (1) Each Tribunal shall consist of a Chairman and such number of Vice-Chairmen and other Members as the appropriate Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the tribunal may be exercised by Benches thereof.

(2) Subject to the other provisions of this Act, a Bench shall be presided over by the Chairman or a Vice-Chairman and shall consist of at least two other Members.

(3) The Bench for which the Chairman is appointed as the Presiding Officer shall be the principal Bench and the other Benches shall be known as the additional Benches.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (3), the Chairman,—

(a) may also act as the Chairman of any additional Bench;

(b) may transfer the Vice-Chairman or other Member from one Bench to another Bench;

(c) may authorise the Vice-Chairman or other Member appointed to one Bench to discharge also the functions of the Vice-Chairman or, as the case may be, other Member of another Bench; and

(d) may, for the purpose of securing that any case or cases which, having regard to the nature of the questions involved, requires or require, in his opinion or under the rules made by the Central Government in this behalf, to be decided by a Bench composed of more than three Members, issue such general or special orders, as he may deem fit.

(5) Notwithstanding anything contained in sub-section (1) or sub-section (3) and subject to any rules that may be made in this behalf, when one of the persons constituting a Bench (whether such person be

the Presiding Officer or other Member of the Bench) is unable to discharge his functions owing to absence, illness or any other cause or in the event of the occurrence of any vacancy either in the office of the Presiding Officer or in the office of one or the other Members of the Bench, the remaining two persons may function as the Bench and if the Presiding Officer of the Bench is not one of the remaining two persons, the senior among the remaining persons shall act as the Presiding Officer of the Bench.

(6) Subject to the other provisions of this Act, the places at which the principal Bench and other Benches shall ordinarily sit shall be such as the appropriate Government may, by notification, specify.

6. (1) A person shall not be qualified for appointment as the Chairman unless he—

(a) is, or has been, a Judge of the Supreme Court or of a High Court; or

(b) has, for at least two years, held the office of Vice-Chairman; or

(c) has, for at least two years, held the post of a Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India.

Qualifica-
tion for
appoint-
ment
as Chair-
man,
Vice-
Chairman
or other
Member.

(2) A person shall not be qualified for appointment as the Vice-Chairman unless he—

(a) is, or has been, a Judge of the Supreme Court or of a High Court; or

(b) has, for at least two years, held the post of a Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India; or

(c) has, for a period of not less than three years, held office as a Member.

(3) No person shall be qualified for appointment as a Member unless he—

(a) is, or has been, a Judge of a High Court; or

(b) has, for at least two years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India; or

(c) has, for at least three years, held the post of a Joint Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Joint Secretary to the Government of India.

(4) The Chairman, Vice-Chairman and every other Member of the Central Administrative Tribunal shall be appointed by the President.

(5) The Chairman, Vice-Chairman and every other Member of an Administrative Tribunal for a State shall be appointed by the President after consultation with the Governor of the concerned State.

(6) The Chairman, Vice-Chairman and every other Member of a Joint Administrative Tribunal shall, subject to the terms of the agreement between the participating State Governments published under sub-section (3) of section 4, be appointed by the President after consultation with the Governors of the concerned States.

Explanation.—In computing, for the purposes of this section, the period during which a person has held any post under the Central or a State Government, there shall be included the period during which he has held any other post under the Central or a State Government (including an office under this Act) carrying the same scale of pay as that of the first mentioned post or a higher scale of pay.

Vice-
Chairman
to act as
Chairman
or to dis-
charge
his func-
tions in
certain
circum-
stances,

7. (1) In the event of the occurrence of any vacancy in the office of the Chairman by reason of his death, resignation or otherwise, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the appropriate Government may, by notification, authorise in this behalf, shall act as the Chairman until the date on which a new Chairman, appointed in accordance with the provisions of this Act to fill such vacancy enters upon his office.

(2) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Vice-Chairman or, as the case may be, such one of the Vice-Chairmen as the appropriate Government may, by notification, authorise in this behalf, shall discharge the functions of the Chairman until the date on which the Chairman resumes his duties.

Term of
office.

8. The Chairman, Vice-Chairman or other Member shall hold office as such for a term of five years or until he attains,—

(a) in the case of the Chairman or Vice-Chairman, the age of sixty-five years, and

(b) in the case of any other Member, the age of sixty-two years, whichever is earlier.

Resigna-
tion and
removal,

9. (1) The Chairman, Vice-Chairman or other Member may, by notice in writing under his hand addressed, to the President, resign his office:

Provided that such person shall, unless he is permitted by the President to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is earlier.

(2) The Chairman, Vice-Chairman or any other Member shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by a Judge of the Supreme Court in which such Chairman, Vice-Chairman or other Member had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of a Chairman, Vice-Chairman or other Member referred to in sub-section (2).

10. The salaries and allowances payable to, and the other terms and conditions of service (including pension, gratuity and other retirement benefits) of, the Chairman, Vice-Chairman and other Members shall be such as may be prescribed by the Central Government:

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairman, Vice-Chairman or other Member shall be varied to his disadvantage after his appointment.

Salaries and allowances and other terms and conditions of service of Chairman, Vice-Chairman and other Members.

11. On ceasing to hold office,—

(a) the Chairman of the Central Administrative Tribunal shall be ineligible for further employment either under the Government of India or under the Government of a State;

(b) the Chairman of a State Administrative Tribunal or a Joint Administrative Tribunal shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman or Vice-Chairman or any other Member of the Central Administrative Tribunal or as the Chairman of any other State Administrative Tribunal or Joint Administrative Tribunal, but not for any other employment either under the Government of India or under the Government of a State;

(c) the Vice-Chairman of the Central Administrative Tribunal shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman of that Tribunal or as the Chairman or Vice-Chairman of any State Administrative Tribunal or Joint Administrative Tribunal, but not for any other employment either under the Government of India or under the Government of a State;

(d) the Vice-Chairman of a State Administrative Tribunal or a Joint Administrative Tribunal shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman or Vice-Chairman of the Central Administrative Tribunal or of any other State Administrative Tribunal or Joint Administrative Tribunal, but not for any other employment either under the Government of India or under the Government of a State;

(e) a Member (other than the Chairman or Vice-Chairman) of any Tribunal shall, subject to the other provisions of this Act, be eligible for appointment as the Chairman or Vice-Chairman of such Tribunal or as the Chairman, Vice-Chairman or other Member of any other Tribunal, but not for any other employment either under the Government of India or under the Government of a State;

(f) the Chairman, Vice-Chairman or other Member shall not appear, act or plead before any Tribunal of which he was the Chairman, Vice-Chairman or other Member.

Provision as to the holding of offices by Chairman, etc., on ceasing to be such Chairman, etc.

Explanation.—For the purposes of this section, employment under the Government of India or under the Government of a State includes employment under any local or other authority within the territory of India or under the control of the Government of India or under any corporation owned or controlled by Government.

Financial and administrative powers of the Chairman.

12. The Chairman shall exercise such financial and administrative powers over the principal Bench and each of the additional Benches as may be vested in him under the rules made by the appropriate Government:

Provided that the Chairman shall have authority to delegate such of his financial and administrative powers as he may think fit to the Vice-Chairman, subject to the condition that the Vice-Chairman shall, while exercising such delegated powers, continue to act under the direction, control and supervision of the Chairman.

Staff of the Tribunal.

13. (1) The appropriate Government shall determine the nature and categories of the officers and other employees required to assist a Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may think fit.

(2) The salaries and allowances and conditions of service of the officers and other employees of a Tribunal shall be such as may be specified by rules made by the appropriate Government.

CHAPTER III

JURISDICTION, POWERS AND AUTHORITY OF TRIBUNAL

Jurisdiction, powers and authority of the Central Administrative Tribunal.

14. (1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court under article 136 of the Constitution) in relation to,—

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with Defence or in the Defence Services, being, in either case, a post filled by a civilian;

(b) all service matters concerning,—

(i) a member of any All-India Service; or

(ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any Defence Services or a post connected with Defence,

and pertaining to the service of such member, person, or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation or other body, at the disposal of the Central Government for such appointment.

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations owned or controlled by Government, not being a local or other authority or corporation controlled or owned by a State Government:

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations.

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise on and from the relevant date all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court under article 136 of the Constitution) in relation to,—

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of any local or other authority or corporation to which the provisions of this sub-section apply by virtue of a notification issued under sub-section (2); and

(b) all service matters concerning a person [other than a person referred to in clause (a) or clause (b) of sub-section (1)] appointed to any service or post in connection with the affairs of any local or other authority or corporation referred to in clause (a), and pertaining to the service of such person in connection with the affairs of such local or other authority or, as the case may be, corporation.

Explanation.—For the purpose of this sub-section “relevant date”, in relation to any local or other authority or corporation, means the date with effect from which the provisions of this sub-section apply to such local or other authority or corporation.

15. (1) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court under article 136 of the Constitution) in relation to,—

(a) recruitment, and matters concerning recruitment, to any civil service of the State or to any civil post under the State;

(b) all service matters concerning a person [not being a person referred to in clause (c) of this sub-section or a member, person or civilian referred to in clause (b) of sub-section (1) of section 14] appointed to any civil service of the State or any civil post under the State and pertaining to the service of such person in connection with

Jurisdiction, powers and authority of State Administrative Tribunals.

the affairs of the State or of any local or other authority under the control of the State Government or of any corporation owned or controlled by the State Government;

(c) all service matters pertaining to service in connection with the affairs of the State concerning a person appointed to any service or post referred to in clause (b), being a person whose services have been placed by any such local or other authority or corporation or other body as is controlled or owned by the State Government, at the disposal of the State Government for such appointment.

(2) The State Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities and corporations controlled or owned by the State Government:

Provided that if the State Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations.

(3) Save as otherwise expressly provided in this Act, the Administrative Tribunal for a State shall also exercise on and from the relevant date all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court under article 136 of the Constitution) in relation to,—

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of any local or other authority or corporation to which the provisions of this sub-section apply by virtue of a notification issued under sub-section (2);

(b) all service matters concerning a person [other than a person referred to in clause (b) of sub-section (2) of this section or a member, person or civilian referred to in clause (b) of sub-section (1) of section 14] appointed to any service or post in connection with the affairs of any local or other authority or corporation referred to in clause (a) and pertaining to the service of such person in connection with the affairs of such local or other authority or, as the case may be, corporation.

Explanation.—For the purposes of this sub-section, “relevant date” means, in relation to any local or other authority or corporation, the date with effect from which the provisions of this sub-section apply to such local or other authority or corporation.

(4) For the removal of doubts, it is hereby declared that the jurisdiction, powers and authority of the Administrative Tribunal for a State shall not extend to, or be exercisable in relation to, any matter in relation to which the jurisdiction, powers and authority of the Central Administrative Tribunal extends or is exercisable.

16. A Joint Administrative Tribunal for two or more States shall exercise all the jurisdiction, powers and authority exercisable by the Administrative Tribunals for such States.

Juris-
diction,
powers
and
authority
of a Joint
Adminis-
trative
Tribunal.

10 of 1971.

17. A Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempts of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 shall have effect subject to the modifications that—

Power to
punish
for con-
tempt.

(a) the references therein to a High Court shall be construed as including a reference to such Tribunal;

(b) the references to the Advocate-General in section 15 of the said Act shall be construed,—

(i) in relation to the Central Administrative Tribunal, as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General; and

(ii) in relation to an Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States, as a reference to the Advocate-General of the State or any of the States for which such Tribunal has been established.

18. (1) Where any additional Bench or Benches of a Tribunal is or are constituted, the appropriate Government may, from time to time, by notification, make provisions as to the distribution of the business of the Tribunal amongst the principal Bench and the additional Bench or additional Benches and specify the matters which may be dealt with by each Bench.

Distribu-
tion of
business
amongst
the Tri-
bunals
and its
Benches.

(2) If any question arises as to whether any matter falls within the purview of the business allocated to a Bench of a Tribunal, the decision of the Chairman thereon shall be final.

Explanation.—For the removal of doubts, it is hereby declared that the expression “matters” includes applications under section 19.

CHAPTER IV

PROCEDURE

19. (1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.

Applica-
tions to
Tribunals.

Explanation.—For the purposes of this sub-section, “order” means an order made—

(a) by the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation owned or controlled by the Government; or

(b) by an officer, committee or other body or agency of the Government or a local or other authority or corporation referred to in clause (a).

(2) Every application under sub-section (1) shall be in such form and be accompanied by such documents or other evidence and by such fee (if any, not exceeding one hundred rupees) as may be prescribed by the Central Government.

(3) On receipt of an application under sub-section (1), the Tribunal may, if satisfied after such inquiry as it may deem fit, that the requirements under this Act are complied with in relation to such application, admit such application; but where the Tribunal is not so satisfied, it may reject the application summarily.

(4) Where an application has been admitted by a Tribunal under sub-section (3), every proceeding under the relevant service rules as to redressal of grievances in relation to the subject-matter of such application pending immediately before such admission shall abate and save as otherwise directed by the Tribunal, no appeal or representation in relation to such matter shall thereafter be entertained under such rules.

Applica-
tions not
to be
admitted
unless
other
remedies
exhaust-
ed.

20. (1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,—

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.

(3) For the purposes of sub-sections (1) and (2), any remedy available to an applicant by way of submission of a memorial to the President or to the Governor of a State or to any other functionary shall not be deemed to be one of the remedies which are available unless the applicant had elected to submit such memorial.

Limita-
tion.

21. (1) A Tribunal shall not admit an application,—

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of section 20 has been made in connection with the grievance unless the application is made within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of section 20 has been made

and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where—

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the matter to which such order relates became a matter within the jurisdiction of the Tribunal; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b) of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of sub-section (1) or, as the case may be, the period of six months specified in sub-section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

5 of 1908. **22. (1)** A Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made by the Central Government, the Tribunal shall have power to regulate its own procedure including the fixing of places and times of its inquiry and deciding whether to sit in public or in private.

Proce-
dure and
powers
of Tribu-
nals.

(2) A Tribunal shall decide every application made to it as expeditiously as possible and ordinarily every application shall be decided on a perusal of documents and written representations and after hearing of oral arguments, if any, allowed by the Tribunal in the circumstances of the case.

5 of 1908. (3) A Tribunal shall have, for the purposes of holding any inquiry, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents;

(c) receiving evidence on affidavits;

1 of 1872. (d) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872, requisitioning any public record or document or copy of such record or document from any office;

(e) issuing commissions for the examination of witnesses or documents;

(f) reviewing its decisions;

- (g) dismissing a representation for default or deciding it *ex parte*;
- (h) setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and
- (i) any other matter which may be prescribed by the Central Government.

Right of applicant to take assistance of legal practitioner and of Government, etc., to appoint presenting officers.

23. (1) A person making an application to a Tribunal under this Act may either appear in person or take the assistance of a legal practitioner of his choice to present his case before the Tribunal.

(2) The Central Government or a State Government or a local or other authority or corporation, to which the provisions of sub-section (3) of section 14 or sub-section (3) of section 15 apply, may appoint one or more persons (whether legal practitioners or not) to act as presenting officers and a person so appointed, or any legal practitioner duly authorised in this behalf, by it may present its case with respect to any application before a Tribunal.

Conditions as to making of interim orders.

24. Notwithstanding anything contained in any other provisions of this Act or in any other law for the time being in force, no interim order (whether by way of injunction or stay or in any other manner) shall be made on, or in any proceedings relating to, an application unless—

(a) copies of such application and of all documents in support of the plea for such interim order are furnished to the party against whom such application is made or proposed to be made; and

(b) opportunity is given to such party to be heard in the matter:

Provided that a Tribunal may dispense with the requirements of clauses (a) and (b) and make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant which cannot be adequately compensated in money but any such interim order shall, if it is not sooner vacated, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless the said requirements have been complied with before the expiry of that period and the Tribunal has continued the operation of the interim order.

Power of Chairman to transfer cases from one Bench to another.

25. On the application of any of the parties, and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may—

(a) transfer any case pending before the principal Bench, for disposal, to any additional Bench, or

(b) transfer any case pending before an additional Bench for disposal to any other additional Bench, or

(c) withdraw to the principal Bench any case pending before any additional Bench, for disposal by the principal Bench.

26. The decision of a Bench on any point shall, where there is a majority, be according to the opinion of the majority, and where there is no majority and the members are equally divided in their opinion, they shall draw up a statement of the case setting forth the point or points on which they differ, and make a reference to the Chairman and on receipt of such reference the Chairman may arrange for the hearing of such point or points by one or more of the other members (including, if he did not preside over such Bench, himself) and such point or points shall be decided according to the opinion of the majority of the members who have heard the case including those who had first heard it.

Decision to be by majority.

27. Subject to the other provisions of this Act and the rules, the order of a Tribunal finally disposing of an application shall be executed in the same manner in which any final order of the nature referred to in clause (a) of sub-section (2) of section 20 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed.

Execution of orders of a Tribunal.

CHAPTER V

MISCELLANEOUS

28. On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any Service or post or service matters concerning members of any Service or persons appointed to any Service or post, no court (except the Supreme Court under article 136 of the Constitution) shall have, or be entitled to exercise any, jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or such service matters.

Exclusion of jurisdiction of courts except the Supreme Court under article 136 of the constitution.

29. (1) Every suit or other proceeding pending before any court or other authority immediately before the date of establishment of a Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after such establishment within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal:

Transfer of pending cases.

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before a High Court of the Supreme Court.

(2) Every suit or other proceeding pending before a court or other authority immediately before the date with effect from which jurisdiction is conferred on a Tribunal in relation to any local or other authority or corporation, being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after the said date, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal:

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before a High Court or the Supreme Court.

Explanation.—For the purposes of this sub-section, “date with effect from which jurisdiction is conferred on a Tribunal”, in relation to any local or other authority or corporation, means the date with effect from which the provisions of sub-section (3) of section 14 or, as the case may

be, sub-section (3) of section 15 are applied to such local or other authority or corporation.

(3) Where immediately before the date of establishment of a Joint Administrative Tribunal any one or more of the States for which it is established, has or have a State Tribunal or State Tribunals, all cases pending before such State Tribunal or State Tribunals immediately before the said date together with the records thereof shall stand transferred on that date to such Joint Administrative Tribunal.

Explanation.—For the purposes of this sub-section, “State Tribunal” means a Tribunal established under sub-section (2) of section 4.

(4) Where any suit, appeal or other proceeding stands transferred to a Tribunal under sub-section (1) or sub-section (2), the Tribunal may, on receipt of the records thereof, proceed to deal with such suit, appeal or other proceeding, so far as may be, in the same manner as in the case of an application under section 19, from the stage which was reached before it stood so transferred or from any earlier stage or *de move*, as the Tribunal may deem fit.

(5) Where any case stands transferred to a Joint Administrative Tribunal under sub-section (3), the Joint Administrative Tribunal may proceedings within the meaning of sections 193, 319 and 228 of the it stood so transferred.

Proceedings :
before
Tribunal
to be
judicial
proceedings.
Members
and
staff of
Tribunal
to be
public
servants.

30. All proceedings before a Tribunal shall be deemed to be judicial proceedings within the meaning of section 193, 219 and 228 of the Indian Penal Code.

45 of 1860.

31. The Chairman, Vice-Chairman and other members and the officers and other employees provided under section 13 to a Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protec-
tion of
action
taken in
good
faith.

32. No suit, prosecution or other legal proceeding shall lie against the Central or State Government or against the Chairman, Vice-Chairman or other member of any Central, or Joint or State, Administrative Tribunal, or any other person authorised by such Chairman, Vice-Chairman or other member for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

Act to
have
over-
riding
effect.

33. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Power to
remove
diffi-
culties.

34. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

35. (1) The Central Government may, subject to the provisions of section 36, by notification, make rules to carry out the provisions of this Act.

Power of
the
Central
Govern-
ment to
make
rules.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the case or cases which shall be decided by a Bench composed of more than three Members under clause (d) of sub-section (4) of section 5;

(b) the procedure under sub-section (3) of section 9 for the investigation of misbehaviour of incapacity of Chairman, Vice-Chairman or other Member;

(c) the salaries and allowances payable to, and the other terms and conditions of, the Chairman, Vice-Chairman and other Members;

(d) the form in which an application may be made under section 19, the documents and other evidence by which such application shall be accompanied and the fees payable in respect of such application;

(e) the rules subject to which a Tribunal shall have power to regulate its own procedure under sub-section (1) of section 22 and the additional matters in respect of which a Tribunal may exercise the powers of a civil court under clause (i) of sub-section (3) of that section; and

(f) any other matter which may be prescribed or in respect of which rules are required to be made by the Central Government.

36. The appropriate Government may, by notification, make rules to provide for all or any of the following matters, namely:—

Power
of the
appro-
priate
Govern-
ment to
make
rules.

(a) the financial and administrative powers which the Chairman of a Tribunal may exercise over the principal Bench and the additional Benches of the Tribunal under section 12;

(b) the salaries and allowances and conditions of service of the officers and other employees of a Tribunal under sub-section (2) of section 13; and

(c) any other matter not being a matter specified in section 35 in respect of which rules are required to be made by the appropriate Government.

37. (1) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Laying of
rules.

(2) Every rule made by a State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT OF OBJECTS AND REASONS

Article 323A of the Constitution stipulates that Parliament may, by law, provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any Corporation owned or controlled by the Government.

2. The Bill seeks to give effect to the aforesaid constitutional provision by providing for the establishment of an Administrative Tribunal for the Union and a separate Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States. The Bill also provides for—

(a) the jurisdiction power, (including the power to punish for contempt) and authority which must be exercised by each Tribunal;

(b) the procedure (including provisions as to limitation and rules of evidence) to be followed by the Tribunals;

(c) exclusion of the jurisdiction of all courts, except that of the Supreme Courts under article 136 of the Constitution relating to service matters;

(d) the transfer to each Administrative Tribunal of any suit or other proceedings pending before any court or other authority immediately before the establishment of such Tribunal as would have been within the jurisdiction of such Tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment.

3. The establishment of Administrative Tribunal under the aforesaid provision of the Constitution has become necessary since a large number of cases relating to service matters are pending before the various courts. It is expected that the setting up of such Administrative Tribunals to deal exclusively with service matters would go a long way in not only reducing the burden of the various courts and thereby giving them more time to deal with other cases expeditiously but in also providing to the persons covered by the Administrative Tribunals speedy relief in respect of their grievances.

NEW DELHI,

P. VENKATASUBBAIAH.

The 10th August, 1984.

Notes on clauses

Clause 2.—This clause provides for exclusion of certain categories of persons from the purview of the Act.

Clause 3.—This clause defines the various expressions occurring in the Act.

Clause 4.—This clause provides for the establishment of the Central Administrative Tribunal by the Central Government and the establishment of Administrative Tribunal for a State or two or more States by the Central Government on a request received from the State Government(s) in this behalf.

Clause 5.—This clause provides for the establishment of the Tribunal with a principal Bench and such number of additional Benches as may be required and provides that each Bench shall consist of three members including the Presiding Officer.

Clause 6.—This clause makes detailed provisions regarding the qualifications to be fulfilled for appointment as Chairman, Vice-Chairman or other Members of the Tribunal.

Clause 7.—This clause indicates the circumstances under which the Vice-Chairman of the Tribunal may act as Chairman or discharge the functions of the Chairman.

Clause 8.—This clause fixes the tenure of the Chairman, Vice-Chairman or other Members of the Tribunal subject to a maximum age limit.

Clause 9.—This clause details the procedure for resignation or removal of the Chairman, Vice Chairman or other Members of the Tribunal.

Clause 10.—This clause provides for the framing of rules by the Central Government to regulate the salaries and allowances and other condition of service of Chairman, Vice-Chairman and other Members.

Clause 11.—This clause provides for certain restrictions on the further employment of the Chairman, Vice-Chairman and other Members on their ceasing to hold such office with a provision for further employment of a Member as Vice-Chairman/Chairman and the further employment of a Vice-Chairman as Chairman.

Clause 12.—This clause provides for framing of rules by the Central Government or the State Government defining financial and administrative powers of the Chairman, with provision to enable the Chairman to delegate his powers to the Vice Chairman.

Clause 13.—This clause provides that the Central Government or a State Government as the case may be shall provide the staff for the functioning of the Tribunal.

Clause 14.—This clause defines the jurisdiction, powers and authority of the Central Administrative Tribunal in regard to service matters of various categories of persons specified therein.

Clause 15.—This clause defines the jurisdiction, powers and authority of the State Administrative Tribunal in regard to service matters of various categories of persons specified therein.

Clause 16.—This clause clarifies that a Joint Administrative Tribunal shall be functioning as the State Administrative Tribunal for each of the constituent States.

Clause 17.—This clause vests the Tribunal with powers to punish for contempt of itself as a High Court.

Clause 18.—This clause provides for appropriate provisions being made by the Central Government or the State Government as the case may be for distribution of business amongst the Tribunal and its Benches.

Clause 19.—This clause provides for making an application to the Tribunal by an aggrieved persons covered by this Act.

Clause 20.—This clause provides for admission of applications made by aggrieved persons only if other remedies available have been exhausted.

Clause 21.—This clause provides for limitation on admission of applications from the aggrieved persons by the Tribunal.

Clause 22.—This clause provides that the Tribunal shall have the power to regulate its own procedure subject to the other provisions of this Act or of any rules made by the Central Government. It also invests the Tribunal with various powers necessary for holding an inquiry as are vested in a civil court.

Clause 23.—This clause provides for the aggrieved persons taking the assistance of a legal practitioner and the Government presenting its case through one or more persons whether legal practitioners or not.

Clause 24.—This clause empowers the Tribunal to make interim orders subject to certain conditions.

Clause 25.—This clause defines the powers of the Chairman to transfer cases between the principal Bench and the additional Benches and to withdraw a case from an additional Bench to the principal Bench.

Clause 26.—This clause provides for decision by the majority of the Tribunal and also prescribes the procedure to be followed when there is no majority.

Clause 27.—This clause indicates the manner in which orders of Tribunals may be executed.

Clause 28.—This clause provides for the exclusion with regard to the matters mentioned therein of jurisdiction of all courts except that of the Supreme Court under article 136 of the Constitution.

Clause 29.—This clause provides for the transfer to the Tribunal of all cases relating to service matters pending before courts except appeal cases.

Clause 30.—This clause makes it clear that all proceedings before a Tribunal shall be deemed to judicial proceedings.

Clause 31.—This clause makes it clear that Members and staff of the Tribunal shall be deemed to be public servants.

Clause 32.—This clause provides for protection of the Central or State Government or the Vice-Chairman or other Members of any Central or Joint or State Administrative Tribunal in respect of anything done in good faith in pursuance of this Act.

Clause 33.—This clause is for giving overriding effect to the provisions of the legislation.

Clause 34.—This clause empowers the Central Government to make in suitable provisions for removing any difficulty in giving effect to the provisions of the legislation.

Clause 35.—This clause empowers the Central Government to make rules for various matters relating to procedures of the Tribunal, conditions of service of Chairman, Vice-Chairman and other Members and similar other matters for the proper functioning of the Tribunal.

Clause 36.—This clause provides for the making of rules by the Central Government or a State Government as the case may be with regard to the various matters specified therein.

Clause 37.—This clause provides for the laying of rules.

FINANCIAL MEMORANDUM

The Administrative Tribunals Bill, 1984 provides for the adjudication or trial by the Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any Corporation owned or controlled by Government and for matters connected therewith or incidental thereto.

2. According to clause 5 of the Bill, the Tribunal shall consist of a Chairman and such number of Vice-Chairmen and other Members as may be considered necessary. The Bench of the Tribunal shall be presided over by the Chairman or by the Vice-Chairman and shall consist of at least two other Members. The Bench presided over by the Chairman will be known as the principal Bench and the other Benches will be known as additional Benches of the Tribunal. Clause 10 provides that the salary and allowances payable to, and the other terms and conditions of service of the Chairman, Vice-Chairman and other Members shall be such as may be prescribed by the Central Government. Clause 13 provides that Government shall determine the nature and categories of the officers and other employees required to assist a Tribunal in the discharge of its functions and provide the Tribunal with such officers and other employees as it may deem fit. The salaries and allowances and conditions of service of the officers and other employees of the Tribunal shall be prescribed by the rules made by the Government. These are the provisions in the Bill which will have financial implications once it is enacted.

3. When the Central Administrative Tribunal is in full operation, it will have a principal Bench at Delhi and additional Benches equal in number to the number of High Courts, located at places where High Courts are now located. This is because once the Tribunal is set up and it starts to deal with service matters of persons within its jurisdiction, the jurisdiction of the High Courts and of the Supreme Court (except under article 136 of the Constitution) over service matters of such persons will be excluded. However, to start with, it is proposed to set up the principal Bench and four additional Benches to be located at Delhi, Bombay, Calcutta, Nagpur and Madras to cover the Northern, Western, Eastern, Central and Southern regions of the country. On this basis, the immediate requirement of the posts of Chairman, Vice-Chairman and Members for the proposed Administrative Tribunal will be as indicated below:—

S. No.	Name of the post	Number of posts	Pay
1.	Chairman	1	Rs. 4000 fixed
2.	Vice-Chairman	4/5*	Rs. 3500 fixed
3.	Member	10/9*	Rs. 3000 fixed.

*This is in case one of the offices of Member in the principal Bench is operated at the level of Vice-Chairman.

As and when it becomes necessary to establish at least one additional Bench at every place where High Courts are located now, the requirement of posts of Chairman, Vice-Chairman and Members will be as under:—

S. No.	Name of the post	Number of posts	Pay
1.	Chairman	1	Rs. 4000 fixed
2.	Vice-Chairman	15/16*	Rs. 3500 fixed
3.	Member	32/31*	Rs. 3000 fixed.

*This is in case one of the offices of Member in the principal Bench is operated at the level of Vice-Chairman.

4. For their efficient functioning, the principal Bench and the additional Benches of the Tribunal will also require adequate supporting staff. It is not possible to indicate precisely at this stage the exact number and the categories of staff required for the different Benches of the Tribunal. This will require to be worked out separately at an appropriate stage before the Benches of the Tribunal are actually set up. In addition to the expenditure on the supporting staff, expenditure will also have to be incurred on rent for hired accommodation, acquisition of furniture and fittings, office equipment like typewriters, almirahs, filing cabinets, duplicating machines, etc., as also motor cars; three-wheeler scooters, etc. Expenditure will also have to be incurred on running of the offices under heads such as office stationery, petrol, oil and lubricants, etc. On a rough estimate, the recurring expenditure on running the five Benches of the Tribunal including the principal Bench is expected to be of the order of about Rs. 60 lakhs per annum. The capital expenditure that will have to be incurred for setting up of the five Benches is expected to be of the order of Rs. 50 lakhs particularly since the expenditure on furniture is likely to be heavy on account of the need for providing special furniture in the court rooms. As and when additional Benches are established at places where High Courts are now located, the additional annual recurring expenditure is expected to be of the order of Rs. 90 lakhs per annum, while the non-recurring expenditure will be about Rs. 80 lakhs.

5. The Department of Personnel and Administrative Reforms which will be servicing the Administrative Tribunals and attending to various matters relating to the establishment of the Tribunals may also require to be strengthened to cope with the additional work. It is, however, not possible to indicate at this stage the exact expenditure in this regard. This will be worked out in due course.

6. It may be stated that though the setting up of the Administrative Tribunal involves additional expenditure from the Consolidated Fund of India, the Tribunal is expected to go a long way in reducing the burden on the courts and providing speedy disposal of grievances relating to service matters.

7. The provisions of the Bill do not involve any other expenditure of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 34 of the Bill empowers the Central Government to make rules for the removal of any difficulty which may arise in giving effect to any provision of the Bill and further provides that every order so made shall be laid before each House of Parliament.

Sub-clause (1) of clause 35, and clause 36, of the Bill, empower the Central Government to make, by notification in the Official Gazette, rules to carry out the provisions of the Bill. The matters in relation to which such rules are to be made have been specified in sub-clause (2) of clause 35 and sub-clauses (a) and (b) of clause 36. Such matters include the specification of classes of cases which shall be decided by a bench composed of more than three Members; salaries and allowances payable to, and other terms and conditions of service, of the Chairman, Vice-Chairman and other Members of a Tribunal; the manner in which the procedure of a Tribunal shall be regulated; additional matters in relation to which the Tribunal may exercise the powers of a civil court. Clause 36 empowers the appropriate Government to make rules providing for the financial and administrative powers which the Chairman of a Tribunal may exercise; and salaries and allowances and other conditions of service of officers and other employees of the Tribunal.

By sub-clause (c) of clause 36, the appropriate Government has been empowered to make the rules relating to matters other than those specified in clause 35.

Sub-clause (1) of clause 37 of the Bill provides for the laying of the rules made by the Central Government before each House of Parliament and sub-clause (2) of clause 37 provides for the laying of the rules made by the State Government before the State Legislature.

The matters in respect of which such orders and rules may be made are matters of detail and procedure. The delegation of the legislative power is, therefore, of a normal character.

SUDARSHAN AGARWAL,
Secretary-General.